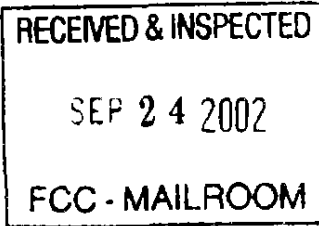


Comments on Behalf of CNO
August 12, 2002



EX PARTE OR LATE FILED

CC Docket 98-170

Before the
Federal Communications Commission
Washington, D.C. 20554

ORIGINAL

In the Matter of)	
)	
Truth-In-Billing)	CC Docket 98-170
and)	
Billing Format)	

**Comments On Behalf Of
The Utility, Cable & Telecommunications Committee
Of The City Council Of New Orleans**

NOW COMES, the Utility, Cable & Telecommunications Committee of the City Council of New Orleans ("CNO"), through undersigned counsel, who respectfully submits the following comments regarding the Federal Communications Commission's inquiry concerning the application of truth-in-billing rules to wireless carriers.

1. Interest of CNO.

The New Orleans City Council is the legislative branch of local government which enacts laws to protect the public health, safety and welfare of the citizens of New Orleans. The Utility, Cable & Telecommunications Committee of the City Council of New Orleans oversees the City Council's regulatory authority over utility, cable and telecommunication matters and makes recommendations to the full Council concerning rates and services. This Committee also reviews and sets policy concerning the granting and oversight of cable and telecommunications matters in New Orleans.

043

II. Background.

On May 11, 1999, the Federal Communications Commission released its *First Report and Order* in this docket. The purpose of this docket was to enact rules that would prevent consumer confusion over the content of their telephone bills. More specifically, the purpose of the rulemaking was to prevent the illegal practices known as slamming and cramming, *i.e.*, the changing of a subscriber's carrier selection without that subscriber's knowledge or explicit authorization and the causing of authorized, misleading or deceptive charges to be placed on a consumer's telephone bill.

The *First Report and Order* adopted rules to ensure that consumers receive telephone bills that are fair, clear and truthful. These rules are commonly referred to as "truth-in-billing" rules. However, several of the truth-in-billing rules established in the *First Report and Order* do not apply to wireless carriers. The FCC had exempted wireless carriers from several of the truth-in-billing requirements upon the belief that consumers have relatively few complaints concerning the billing practices of wireless carriers.

III. NARUC's Resolution.

Very recently, on July 31, 2002, the National Association of Regulatory Utility Commissioners ("NARUC") adopted a resolution wherein it found that:

- over 128 million Americans subscribe to a wireless telecommunications service;
- consumers' reliance upon wireless telephony as the primary source of telecommunications is steadily increasing;
- consumers' complaints against wireless telecommunications carriers are increasing at both the FCC and at state commissions;

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- billing and rate disputes account for 55% of the consumers' complaints against wireless carriers filed with the FCC; and
 - consumers of wireless services tell staff at state commissions that they spend a significant amount of time and experience attempting to resolve billing disputes and other complaints.

NARUC's resolution further encouraged its members to file ex-parte comments in FCC Docket No. 98-170 concerning the application of truth-in-billing rules to wireless carriers. Upon the recommendation of this resolution, CNO herein files its comments supporting truth-in-billing rules for wireless carriers.¹

IV. Rules Applicable to Wireless Carriers.

Three of the truth-in-billing rules adopted by the FCC in its *First Report and Order* do apply to wireless carriers. These rules are set forth below.

- 1) All carriers are required to provide, in their customers' bills, the name of the company providing the service contained in the bill;
- 2) All carriers are required to provide, in their customers' bills, a toll-free number where customers can reach the service provider's customer service representative, and
- 3) All carriers are obligated to describe the federal mandates and requirements, such as Universal Service, in a uniform manner.²

CNO is not a member of NARUC.

The FCC's Order did not include the government-approved language for these mandates, instead, the FCC released a *Further Notice of Proposed Rulemaking* that will seek comment on the appropriate wording to describe the various government requirements

Thus, wireless carriers must only adhere to these three rules. Again, the Commission stated that it did not receive a sufficient amount of complaints concerning the billing practices of wireless carriers in order to justify imposing additional rules on them.

V. Additional Rules That Should Apply to Wireless Carriers.

In addition to the aforementioned rules, the *First Report and Order* had established other rules that were applicable only to *wireline*, but not wireless carriers. These rules are discussed below. To the extent the following rules are relevant to ensure that the billing practices of wireless carriers' bills are fair, clear and truthful, then wireless carriers should also comply with them, to-wit:

1) New Service Provider Information. Where charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider, and the billing entity must provide clear and conspicuous notification of any change in service provider, including notification to the customer that a new provider has begun providing service.

Thus, ensuring that the service provider's charges are clear and conspicuous will facilitate the consumers' ability to review their bills and to detect any unauthorized charges. To separate service providers, the carrier can employ a variety of methods, such as different colored inks, different fonts or different type sizes.

2) Billing Descriptions. Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific

enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

Thus, clear billing descriptions will enable consumers to better understand their bills, and thereby, deter slamming and cramming. Obviously, charges identified as being simply "miscellaneous" are vague and ambiguous and do not convey enough information to allow the consumer to fully understand the service for which he is being charged.

3) Deniable and Non-Deniable Charges. Where a bill contains charges for basic local service, in addition to other charges, the bill must distinguish between charges for which non-payment will result in disconnection of basic, local service, and charges for which non-payment will not result in such disconnection. The carrier must explain this distinction to the customer, and must clearly and conspicuously identify on the bill those charges for which non-payment will not result in disconnection of basic, local service. Carriers may also elect to devise other methods of informing consumers on the bill that they may contest charges prior to payment.

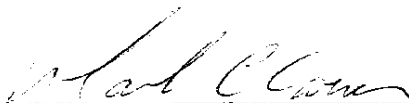
A "deniable" charge is a charge that, if not paid, may result in the termination (*i.e.*, denial) of the customer's local exchange service. Conversely, a "non-deniable" charge is a charge that will not result in the termination of the customer's basic service for non-payment, even though the particular service for which the charge has been levied, *e.g.*, paging service, could be terminated.

The terms "deniable" and "non-deniable" are confusing to consumers. Thus, wireless carriers should clearly and conspicuously identify those charges for which nonpayment will not result in termination of service. Naturally, this rule would only apply when carriers include in a single bill both "deniable" and "non-deniable" charges. For example, a carrier that bills directly for service that includes no charges for basic, local wireless service would not have a disclosure obligation.

VI. Conclusion.

Consumers expect and should receive bills that are fair, clear and truthful – including consumers of wireless carriers. All rationally related truth-in-billing rules should apply to both wireline carriers and wireless carriers. There is no inherent reason to treat wireless carriers differently.

Respectfully submitted:



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Certificate of Service

I hereby certify that the above and foregoing was this day served upon the following by depositing same into the US Mail, postage prepaid and properly addressed.

Signed in Metairie, Louisiana, this 12th day of August 2002.



MARK C. CARVER